

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.)
SAMUEL LYNN DAVIS,)
)
Defendant.)

Case 2:12-cr-00416-GMN-VCF-1

**ORDER ACCEPTING REPORT &
RECOMMENDATION OF MAGISTRATE
JUDGE FERENBACH
(ECF No. 26)**

Before the Court for consideration is the Report and Recommendation (ECF No. 26) of the Honorable Cam Ferenbach, United States Magistrate Judge, entered September 12, 2014.

Pursuant to Local Rule IB 3-2(a), objections were due by September 29, 2014. No objections have been filed. To the extent that defendant's Answer in Reply to the Response of the Government In Re: Motion to Inspect Grand and Petit Juror List or in the Alternative Dismiss the Case With Prejudice (ECF No. 28) should be construed as an Objection to the Report and Recommendation of Magistrate Judge Cam Ferenbach, the defendant has failed to meet his burden.

Title 28 U.S.C. § 1867 governs challenges to the makeup of a grand jury. It states that any such challenges must be raised prior to voir dire. Here, defendant pled guilty and voluntarily waived his right to a jury trial. (ECF No. 16). Therefore, this provision is inapplicable.

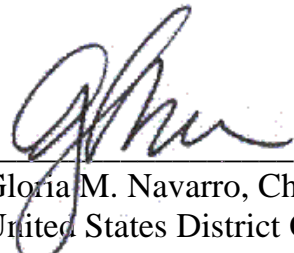
While a defendant pleading guilty does not waive his right to file a motion for relief under 28 U.S.C. § 2255, such a motion must be filed within one year of the final judgment of conviction. 28 U.S.C. § 2255(f)(1). More than one year has passed since defendant's judgment of conviction was filed on March 7, 2013 (ECF No. 20). Therefore, this provision also does not warrant granting defendant any relief.

1 Defendant also alleges some type of conspiracy to “pass off” the United States District
2 Courts as Article III courts. As the government acknowledges, this argument is completely
3 without merit. The Court properly possessed jurisdiction over the instant action.

4 In accordance with 28 U.S.C. § 636(b)(1) and Local Rule IB 1-4, the Court has reviewed
5 the record in this case and has determined that Magistrate Judge Ferenbach’s Recommendations
6 should be **ACCEPTED and ADOPTED in full**.

7 **IT IS THEREFORE ORDERED** that Defendant Samuel Davis’ Motion to Dismiss the
8 Indictment for Improper Venue of Grand Jury (ECF No. 22) is **DENIED** under 28 U.S.C. § 1867.

9 **DATED** this 21st day of October, 2014.

10
11 
12 _____
13 Gloria M. Navarro, Chief Judge
14 United States District Court
15
16
17
18
19
20
21
22
23
24
25